

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTONIO MOLINAR,
Petitioner,

No. C 07-6254 SI (pr)

ORDER OF DISMISSAL

v.

ROBERT L. AYERS, warden,
Respondent.

Antonio Molinar filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition is not his first federal habeas petition concerning his 1996 conviction from the Contra Costa County Superior Court. His earlier habeas petition in Molinar v. Newland, No. C 99-3818 SI, was denied on the merits in 2001.

A second or successive petition may not be filed in this court unless the petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. 28 U.S.C. § 2244(b)(3)(A). Molinar has not obtained such an order from the Ninth Circuit. This court will not entertain a new petition from Molinar until he first obtains permission from the Court of Appeals for the Ninth Circuit to file such a petition. This action is DISMISSED without prejudice to Molinar filing a petition in this court after he obtains the necessary order from the Court of Appeals for the Ninth Circuit.


If Molinar wants to attempt to obtain the necessary order from the Ninth Circuit, he should very clearly mark the first page of his document as a "MOTION FOR ORDER AUTHORIZING DISTRICT COURT TO CONSIDER SECOND OR SUCCESSIVE

1 PETITION PURSUANT TO 28 U.S.C. § 2244(b)(3)(A)" rather than labeling it as a habeas
2 petition because the Ninth Circuit clerk's office is apt to simply forward to this court any
3 document labeled as a habeas petition. He also should mail the motion to the Ninth Circuit (at
4 95 Seventh Street, San Francisco, CA 94103), rather than to this court. In his motion to the
5 Ninth Circuit, he should explain how he meets the requirements of 28 U.S.C. § 2244(b).

6 The clerk shall close the file.

7 IT IS SO ORDERED.

8 DATED: December 17, 2007



SUSAN ILLSTON
United States District Judge